

Docket No.:

NMS-000991

PATENT

AF
3629

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES



In re Application of
Vino R. VAGHI

Application No.: 09/584,099

Group Art Unit: 3629

Confirm. No.: 4453

Examiner: D. Charles

Filed: May 31, 2000

For: INTEGRATED ELECTRONIC SCALE, AND A SYSTEM AND
METHOD WHICH USES THE SCALE AUTOMATICALLY TO
COMPUTE POSTAL/CARRIER RATES

TRANSMITTAL OF APPEAL BRIEF

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Appeal Brief-Patents
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

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NOV 20 2003

GROUP 3600

Sir:

Submitted herewith in triplicate is Appellant(s) Appeal Brief in support of the Notice of Appeal filed September 15, 2003. Enclosed is Check No. 10630 for the Appeal Brief fee of \$165.00.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP

Samuel W. Ntiros
Registration No. 39,318
Carl R. Wesolowski
Registration No. 40,372

P. O. Box 221200
Chantilly, Virginia 20153-1200
703 502-9440

Date: November 17, 2003



Docket No: NMS-0007

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES**

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11.25.03*

In re Application of
Nino R. VAGHI

Serial No: 09/584,099

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GROUP 3600

Sir:

This Appeal Brief is submitted pursuant to the Notice of Appeal filed on September 15, 2003
in connection with this application.

REAL PARTY IN INTEREST

The real party in interest is Vaghi Family Intellectual Properties, LLC by way of an
Assignment filed in the U.S. Patent and Trademark Office on July 9, 2002.

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Serial No. 09/584,099



Attorney Docket No.: NMS-0007A

RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences pending in connection with this application.

STATUS OF THE CLAIMS

Claims 21-33 are pending and have been finally rejected in this application. Original claims 1-20 have been canceled.

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STATUS OF AMENDMENTS

GROUP 3600

On July 2, 2003, a Final Office Action was issued rejecting all pending claims in the application. This action was the fourth action filed rejecting all the pending claims at least twice. Accordingly, it is submitted that this appeal is proper. A Notice of Appeal was filed in response to the Final Office Action mailed on July 2, 2003 and thus there is no status to report of any after-final amendments.

SUMMARY OF THE INVENTION

The present invention relates to specific forms of office equipment in which an electronic scale has been incorporated for purposes of weighing mail and other items of interest. When used to weigh mail, one particular application of the invention is to allow a program to automatically generate postage based on weight information derived from the scale. By integrating the scale into a piece of office equipment, a user's functional work space (e.g., desk space) is not cluttered, for

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example, by many types of scales which have been previously proposed. (See Applicant's specification on pages 4-7).

Independent claim 21 recites an electronic scale integrally formed within a flat-panel display. This scale includes a platform for weighing an item and a weighing unit mounted at least partially within a housing of the flat-panel display. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 10-12 with reference to Figs. 1-3).

Independent claim 22 recites an electronic scale integrally formed within a printer of a personal computer. This scale includes a platform for supporting an item and a weighing unit mounted at least partially within a housing of the printer. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 14-15 with reference to Figs. 9-11).

Independent claim 23 recites an electronic scale integrally formed within a CRT monitor. The scale includes a platform for supporting an item and a weighing unit mounted at least partially within a housing of the CRT monitor. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 12, 14 with reference to Figs. 4-8).

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Independent 24 recites an electronic scale integrally formed within a CPU unit of a personal computer. This scale includes a platform for supporting an item and a weighing unit mounted at least partially within a housing of the CPU unit. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 15-18 with reference to Figs. 12-14).

Independent claim 25 recites a system for computing a postal or carrier rate. The system includes a piece of office equipment, an electronic scale, and a processor. The piece of office equipment includes one of a flat-panel display, a CRT monitor, a CPU unit of a personal computer, and a printer. The scale is integrally formed within a housing of the piece of office equipment and includes a platform for supporting an item and a weighing unit mounted at least partially within the housing of the flat-panel display. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. The processor computes a postal or carrier rate for the item based on the weight signal. (See Figs. 1-14).

Dependent claim 26 recites that the CRT monitor recited in claim 23 is one of a stand-alone monitor and a monitor included in a portable personal computer. (See Figs. 4, 7, and 8).

Dependent claim 27 recites that the CPU unit recited in claim 24 is one of a stand-alone unit and a unit included in a portable personal computer. (See Figs. 12-14).

Independent claim 28 recites a flat-panel display comprising a housing, a platform for supporting an item and a weighing unit mounted at least partially within the housing. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 10-12 with reference to Figs. 1-3).

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Independent claim 29 recites a printer for a personal computer comprising a housing, a platform for supporting an item, and a weighing unit mounted at least partially within the housing. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See, e.g., pages 14-15 with reference to Figs. 9-11).

Independent claim 30 recites a CRT monitor for a personal computer. The monitor includes a housing, a platform for supporting an item, and a weighing unit mounted at least partially within the housing. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 12, 14 with reference to Figs. 4-8).

Dependent claim 31 recites that the CRT monitor is one of a stand-alone monitor and a monitor included in a portable personal computer. (See Figs. 4, 7, and 8).

Independent claim 32 recites a CPU for a personal computer. The CPU includes a housing, a platform for supporting an item, and a weighing unit mounted at least partially within the housing. The weighing unit includes a force transducer which outputs a weight signal indicative of a weight of the item when the item is placed on the platform. (See pages 15-18 with reference to Figs. 12-14).

Dependent claim 33 recites that the CPU is one of stand-alone unit and a unit included in a portable personal computer. (See Figs. 12-14).

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ISSUES

1) Whether claims 21, 23, 24, 28, 30, and 32 are non-obvious under 35 U.S.C. §103(a) over a combination formed between U.S. Patent No. 6,037,548 (“Baitz”) and U.S. Patent No. 4,526,247 (“EerNisse”).

2) Whether claims 26, 27, 31, and 33 are non-obvious under 35 U.S.C. § 103(a) over a combination formed among the Baitz and EerNisse patents and U.S. Patent No. 6,098,057 (“Dlugos”).

3) Whether claims 22, 25, and 29 are non-obvious under 35 U.S.C. § 103(a) over a combination formed between the Dlugos and EerNisse patents.

GROUPING OF THE CLAIMS

- Claim 21 is included in Group 1.
- Claim 22 is included in Group 2.
- Claims 23 and 26 are included in Group 3 and stand or fall together.
- Claims 24 and 27 are included in Group 4 and stand or fall together.
- Claim 25 is included in Group 5.
- Claim 28 is included in Group 6.
- Claim 29 is included in Group 7.
- Claims 30 and 31 are included in Group 8 and stand or fall together.
- Claims 32 and 33 are included in Group 9 and stand or fall together.

ARGUMENT

Appellant respectfully submits that all of the outstanding rejections are improper for the following reasons.

I. Claims 21, 23, 24, 28, 30, and 32 are Non-Obvious over a Baitz-EerNisse Combination.

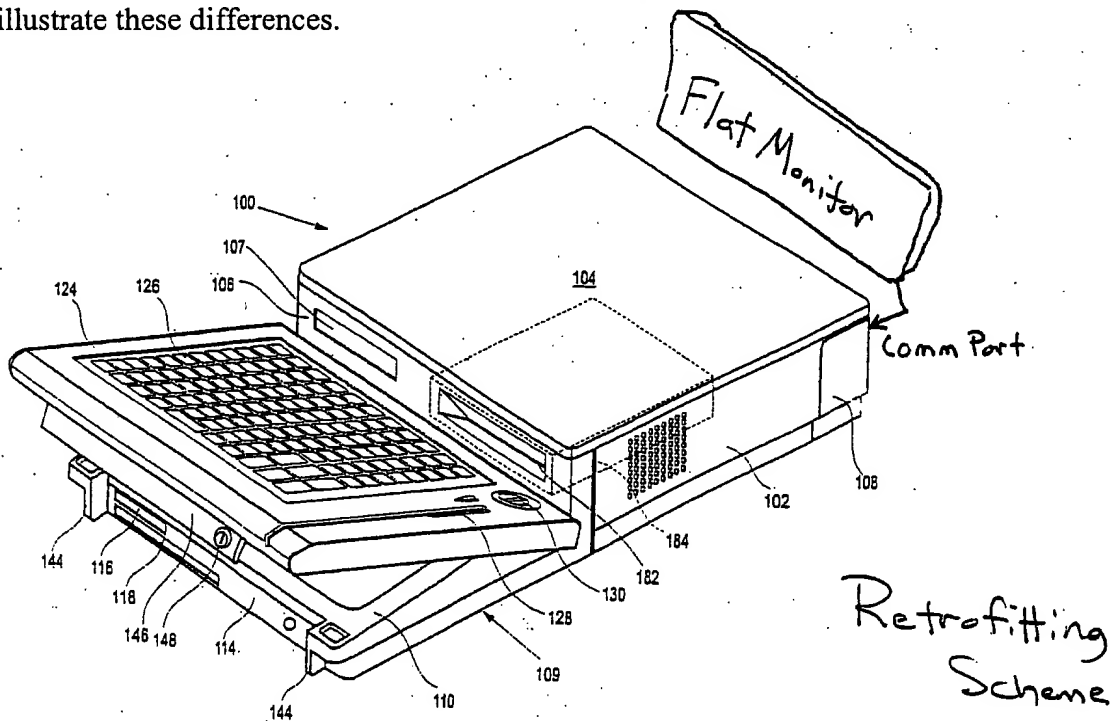
It is well settled that in order to establish a *prima facie* case of obviousness, two requirements must be satisfied. First, the cited references must teach or suggest all the features in the claims. Second, there must have been some teaching or suggestion in existence at the time the claimed invention was made that would have led one of ordinary skill in the art to combine the cited references to form the invention. See MPEP § 2143.01 and *In re Rouffet*, 47 USPQ.2d 1459 (Fed. Cir. 1997). The cited combination does not satisfy either requirement.

Taking claim 28 first, this claim recites a flat-panel display, comprising a housing, a platform for supporting an item, and a **weighing unit mounted at least partially within the housing of the flat-panel display** and including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform. Illustrative embodiments of such a flat-panel display is shown, for example, in Figures 1-3.

The Baitz patent discloses an electronic scale used in a retail outlet. The scale includes a keyboard connected to an electronics box of the scale. As disclosed at column 1, lines 57-65, a flat monitor with a touch screen may be "retrofitted" onto the scale if desired. From the Baitz disclosure,

it is clear that the retrofitting is accomplished by connecting a display to a communications port of the electronics box.

The Baitz patent does not teach or suggest that the retrofitted flat monitor has a housing which at least partially includes a weighing unit of its scale as recited in claim 28. In fact, Baitz teaches away from these features when it discloses the its flat monitor and scale are separate elements which are "retrofitted" or connected together, for example, through a communications port of the scale. An illustration of the Baitz system consistent with its disclosure has been provided below to illustrate these differences.



Because Baitz does not teach or suggest that its flat monitor has a housing which at least partially includes a weighing unit of its scale, it is respectfully submitted that the Baitz patent cannot alone render claim 1 obvious. To make up for the deficiencies of the Baitz patent, the EerNisse patent was cited.

The EerNisse patent was cited for its disclosure of a weighing unit that includes a force transducer. The EerNisse patent does not teach or suggest a flat-panel display having a housing which at least partially includes a weighing unit of an electronic scale. Consequently, it is submitted that the EerNisse patent cannot make up for deficiencies of the Baitz patent, i.e., does not teach or suggest the features of claim 28 missing from the Baitz scale.

Because the Baitz and EerNisse patents do not individually or collectively teach or suggest all the features recited in claim 28, it is respectfully submitted that a combination of these patents cannot satisfy the first requirement for establishing a *prima facie* case of obviousness for this claim. For at least these reasons, it is respectfully submitted that claim 28 is non-obvious over the cited combination.

Claim 30 recites CRT monitor for a personal computer, comprising a housing, a platform for supporting an item, and a **weighing unit mounted at least partially within the housing of the CRT monitor** and including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform. As previously discussed, the Baitz patent discloses that its flat monitor is retrofitted onto a scale, i.e., the scale and monitor are separate components connected together through a communications port. Neither Baitz nor EerNisse teach or suggest a weighing unit at least partially mounted within a housing of a CRT monitor. Based on these differences, it is respectfully submitted that claim 30 and its dependent claim 31 are non-obvious and thus patentable over a Baitz-EerNisse combination.

Claim 32 recites a CPU for a personal computer, comprising a housing, a platform for supporting an item, and a **weighing unit mounted at least partially within the housing and**

including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform. The Baitz and EerNisse patents do not teach or suggest these features.

The Baitz patent discloses an electronic scale having an electronics box which includes a data processing and control unit. Appellant respectfully submits that such a box does not constitute a "personal computer." As those skilled in the art can appreciate, a personal computer has a general purpose microprocessor, i.e., one which is programmed to implement any type of application program stored in its memory. The application programs are not limited to any particular function but rather may include, for example, word processing functions, accounting functions, games, and spreadsheets to mention a few.

One of ordinary skill in the art would not consider the electronics box of Baitz to constitute a "personal computer." As the Baitz patent makes clear, the data processing and control unit within its electronics box is a special-purpose system, i.e., is limited only to performing retail-related functions including weighing products and the function of a cash register. The Baitz patent does not teach or suggest that this data processing and control unit is a general-purpose processor (i.e., one programmed to implement virtually any application program) and thus does not constitute a personal computer as understood in the art.

In view of the foregoing, it is respectfully submitted that the Baitz patent does not teach or suggest a CPU for a personal computer and thus does not teach or suggest that such a CPU has a housing that at least partially includes a weighing unit as recited in claim 32. The EerNisse patent is also deficient in this respect. For at least these reasons, it is respectfully submitted that claim 32 and

dependent claim 33 are allowable over a Baitz-EerNisse combination.

Claim 21 recites features similar to those which patentably distinguish claim 28 from the cited combination: an electronic scale integrally formed within a flat-panel display, comprising a platform for supporting an item and a weighing unit mounted at least partially within a housing of said flat-panel display, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform. As discussed above, the Baitz and EerNisse patents do not teach or suggest these features whether those patents are taken individually or collectively.

Claim 23 recites features similar to those which patentably distinguish claim 30 from the cited combination: an electronic scale integrally formed within a CRT monitor comprising a platform for supporting an item and a weighing unit mounted at least partially within a housing of said CRT monitor, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform. As discussed above, the Baitz and EerNisse patents do not teach or suggest these features whether those patents are taken individually or collectively.

Claim 24 recites features similar to those which patentably distinguish claim 32 from the cited combination: an electronic scale integrally formed within a CPU unit of a personal computer comprising a platform for supporting an item and a weighing unit mounted at least partially within a housing of said CPU unit, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform. As discussed above, the Baitz and EerNisse patents do not teach or suggest these features whether those patents

are taken individually or collectively.

II. Claims 26, 27, 31, and 33 are Non-Obvious over a Baitz-EerNisse-Dlugos Combination.

The cited combination does not satisfy the standard for forming a *prima facie* case of obviousness of claims 26, 27, 31, and 33 under 35 USC § 103(a).

In order to render claims 26, 27, 31, and 33 obvious, the Dlugos patent must teach or suggest the features of independent claims 23, 24, 30, and 32 missing from the Baitz and EerNisse patents. The Dlugos patent discloses a personal computer which is connected to a scale and printer via a cable. Dlugos does not teach or suggest that a weighing unit is at least partially mounted within the housing of a flat-panel display, CRT monitor, or CPU. Accordingly, it is respectfully submitted that the Dlugos patent does not make up for the deficiencies of the Baitz and EerNisse patents. For at least these reasons, it is respectfully submitted that claims 26, 27, 31, and 33 are non-obvious and thus patentable over a Baitz-EerNisse-Dlugos combination.

III. Claims 22, 25, and 29 are Non-Obvious over a Dlugos-EerNisse Combination.

The cited combination does not satisfy the standard for forming a *prima facie* case of obviousness of claims 22, 25, and 29 as set forth in 35 USC § 103(a).

Claim 29 recites a **printer for a personal computer** and that a **weighing unit is mounted at least partially within the housing** of the printer. The Dlugos patent discloses a printer for a personal computer. See Figure 2, where element 60 which is a printer connected to personal computer CPU unit 50. The Dlugos patent, however, does not teach or suggest that this printer has a

housing that at least partially includes a weighing unit as recited in claim 29.

Incidentally, it is noted that the personal computer of Dlugos is also connected to a peripheral device in the form of an integrated unit which includes a scale 34 and printer 44. Printer 44, however, does not function as a printer for personal computer 50, e.g., does not print out word processing documents, etc. Rather, Dlugos makes clear that the sole function of printer 44 is to print information on pieces of mail inserted through one of its slots. (See column 8, line 58 - column 9, line 42). Printer 44, thus, constitutes any one of a variety of conventional postage meter printers. This printer does not constitute a "printer for a personal computer" as recited in claim 29, nor would one skilled in the art recognize printer 44 as such.

For at least the foregoing reasons, it is respectfully submitted that claim 29 is non-obvious and thus patentable over Dlugos.

The EerNisse patent was cited for its disclosure of a force transducer. EerNisse does not teach or suggest a printer for a personal computer having a housing which at least partially includes a weighing unit. Thus, it is submitted that claim 29 is non-obvious over any combination that can be formed between the Dlugos and EerNisse patents.

Claim 22 recites features similar to those which patentably distinguish claim 29 from a Dlugos-EerNisse combination (e.g., "an electronic scale integrally formed within a printer of a personal computer" and "a weighing unit mounted at least partially within a housing of said printer") and thus is also non-obvious over a combination of these patents.

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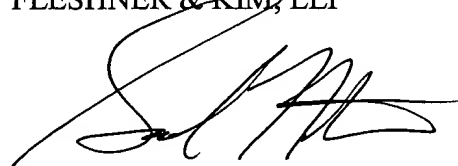
Attorney Docket No. NMS-0007A

Claim 25 recites that any one of a CRT monitor, flat-panel display, CPU for a personal computer, and monitor has a housing that at least partially includes a weighing unit. The Dlugos and EerNisse patents do not individually or collectively teach or suggest these features. It is therefore submitted that claim 25 is allowable over a combination of these patents.

CONCLUSION

For all of the above reasons, Appellant respectfully requests the Board to reverse all the rejections in the Final Office Action.

Respectfully submitted,
FLESHNER & KIM, LLP



Samuel W. Ntiros
Registration No. 39,318

Carl R. Wesolowski
Registration No. 40,372

P. O. Box 221200
Chantilly, Virginia 20153-1200
703 502-9440
Date: November 17, 2003

APPENDIX

21. An electronic scale integrally formed within a flat-panel display, comprising:
a platform for supporting an item; and
a weighing unit mounted at least partially within a housing of said flat-panel display, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform.
22. An electronic scale integrally formed within a printer of a personal computer, comprising:
a platform for supporting an item; and
a weighing unit mounted at least partially within a housing of said printer, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform.
23. An electronic scale integrally formed within a CRT monitor, comprising:
a platform for supporting an item; and
a weighing unit mounted at least partially within a housing of said CRT monitor, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform.

24. An electronic scale integrally formed within a CPU unit of a personal computer, comprising:

a platform for supporting an item; and

a weighing unit mounted at least partially within a housing of said CPU unit, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform.

25. A system for computing a postal or carrier rate, comprising:
a piece of office equipment selected from the group consisting of a flat-panel display unit, a CRT monitor, a CPU unit of a personal computer, and a printer,

an electronic scale integrally formed within a housing of said piece of office equipment, said electronic scale including a platform for supporting an item and a weighing unit mounted at least partially within a housing of said flat-panel display, said weighing unit including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on said platform; and
a processor for computing a postal or carrier rate for said item based on said weight signal.

2 26. The electronic scale of claim 23, wherein the CRT monitor is one of a stand-alone monitor and a monitor included in a portable personal computer.

27. The electronic scale of claim 24, wherein the CPU unit is one of a stand-alone unit and a unit included in a portable personal computer.

28. A flat-panel display, comprising:
a housing;
a platform for supporting an item; and
a weighing unit mounted at least partially within the housing and including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform.

29. A printer for a personal computer, comprising:
a housing;
a platform for supporting an item; and
a weighing unit mounted at least partially within the housing and including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform.

3 30. A CRT monitor for a personal computer, comprising:
a housing;
a platform for supporting an item; and
a weighing unit mounted at least partially within the housing and including a force

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transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform.

4 31. The CRT of claim 30, wherein the CRT monitor is one of a stand-alone monitor and a monitor included in a portable personal computer.

~~32.~~ A CPU for a personal computer, comprising:
a housing;
a platform for supporting an item; and
a weighing unit mounted at least partially within the housing and including a force transducer which outputs a weight signal indicative of a weight of said item when said item is placed on the platform.

~~33.~~ The CPU of claim 32, wherein the CPU is one of a stand-alone unit and a unit included in a portable personal computer.